

EXHIBIT K

Redacted Pursuant to Court Order

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 SPENCER MEYER, individually and on
6 behalf of those similarly situated,

7 Plaintiffs,

8 vs. 1:15 Civ. 9796 (JSR)

9 TRAVIS KALANICK,

10 Defendant.
11 -----

12
13 DEPOSITION OF MIGUEL SANTOS-NEVES

14
15 Tuesday, June 14, 2016

16 9:13 a.m.
17
18
19
20
21

22 Reported by:

23 Joan Ferrara, RPR, RMR, CRR

24 Job No. 174299
25

June 14, 2016

9:00 a.m.

New York, New York

Deposition of MIGUEL

SANTOS-NEVES, held at the offices of McKool
Smith, One Bryant Park Avenue, New York,
New York, pursuant to Notice, before Joan
Ferrara, a Registered Professional and
Merit Reporter and Notary Public of the
State of New York.

A P P E A R A N C E S:

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BY: DAVID W. BOWKER, ESQ.

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(Continued)

1
2 A P P E A R A N C E S: (Continued)

3
4 GIBSON DUNN & CRUTCHER, LLP

5 Attorneys for Defendant - Uber Technologies

6 333 South Grand Avenue

7 Los Angeles, California 90071-3197

8 BY: DANIEL G. SWANSON, ESQ.

9 dswanson@gibsondunn.com

10 REED BRODSKY, ESQ.

11
12
13 ALSO PRESENT:

14 SPENCER MEYER
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1
2 IT IS HEREBY STIPULATED AND
3 AGREED, by and between the attorneys
4 for the respective parties herein,
5 that filing and sealing be and the
6 same are hereby waived.

7 IT IS FURTHER STIPULATED AND
8 AGREED that all objections, except as
9 to the form of the question, shall be
10 reserved to the time of the trial.

11 IT IS FURTHER STIPULATED AND
12 AGREED that the within deposition may
13 be sworn to and signed before any
14 officer authorized to administer an
15 oath, with the same force and effect as
16 if signed and sworn to before the
17 Court.

1
2 M I G U E L S A N T O S - N E V E S ,
3 called as a witness, having been duly
4 sworn by a Notary Public, was examined
5 and testified as follows:

6
7 MR. BOWKER: I just wanted to
8 make a quick statement on the record.
9 Dave Bowker representing Ergo.

10 Just consistent with our
11 agreement with counsel, the
12 proceedings here are subject to
13 confidentiality, and also I think
14 we're going to have some discussion
15 about the proper scope, and so when we
16 run into scope issues, I think we will
17 politely interrupt and discuss, but
18 otherwise let you do your thing.

19 MR. SMITH: Okay.

20 MR. SWANSON: I'm Dan Swanson and
21 I'm here today representing Uber
22 Technologies. Also present is my
23 partner Reed Brodsky.

24 Uber is a putative intervenor in
25 this case, so we're here in a somewhat

1 M. Santos-Neves

2 MR. SMITH:

3 Q. Good morning, Mr. Santos-Neves.

4 A. Good morning.

5 Q. I introduced myself earlier, but
6 again, my name is James Smith. I'm with
7 McKool Smith. I represent plaintiff,
8 Spencer Meyer, in this case.

9 Can you please state your name
10 for the record.

11 A. My full name is Miguel
12 Hershberger Santos-Neves.

13 Q. Can you give me your current
14 address?

15 A. 509 West 155th Street, Apartment
16 3B, New York, New York 10032.

17 Q. Thank you.

18 Are you represented by counsel
19 here today?

20 A. Counsel represents Ergo, and I am
21 an employee of Ergo, so...

22 Q. Does counsel represent you
23 specifically?

24 A. No.

25 Q. So before I begin, I just want to

1 M. Santos-Neves
2 doesn't know you, to willingly provide you
3 information about someone that they know or
4 ostensibly know.

5 A. Uh-huh.

6 MR. BOWKER: Objection. Form.

7 BY MR. SMITH:

8 Q. One way, you said you ask for a
9 reference request. How else?

10 A. The question was confusing. Can
11 you reword it, please?

12 Q. All right. I'll word it a
13 different way.

14 Do you ever use pretextual
15 statements or false statements when you are
16 going to information sources to try and
17 collect information about the target of a
18 reputational assessment?

19 MR. BOWKER: Objection. Form.

20 A. What do you mean by pretext?

21 Q. I mean like not disclosing, you
22 know, who you are or why you're asking the
23 questions or providing a misleading
24 statement with regard to why you are trying
25 to obtain information.

1 M. Santos-Neves

2 MR. BOWKER: Object to the form.

3 A. So you just asked me a series of
4 questions. So we are instructed at Ergo,
5 this is a hard and fast rule, that we
6 approach people as ourselves. We never
7 assume another identity.

8 We also always say who we're
9 working for, which is Ergo. So that, you
10 know, covers one aspect, which is the
11 identity of the individual, right, and
12 place of work.

13 The other question, which was in
14 your one question, has to do with the
15 intentions, right. And here, we -- like I
16 said, it really depends on the project. In
17 certain instances, we can use -- well, let
18 me backtrack.

19 As I said earlier, the
20 confidentiality of our clients is of utmost
21 importance. One of the ways that we
22 maintain that confidentiality is by, as I
23 said earlier, crafting questions that can,
24 you know, maintain that confidentiality.

25 We can do that by being less

1 M. Santos-Neves

2 than -- we can be sort of vague about our
3 intentions and -- but -- and we can use
4 what I would describe as a cover to reach
5 out to sources or experts.

6 Q. And so a cover would be an untrue
7 statement with regard to why you're asking
8 a source the questions?

9 MR. BOWKER: Objection to form.

10 A. Not necessarily.

11 Q. But it could be, like you say,
12 I'm asking these questions for X, but the
13 real reason is Y?

14 A. Not necessarily.

15 Q. I'm not asking if it's
16 necessarily that way. I'm asking is it
17 ever that way.

18 A. Could you please reask the
19 question?

20 Q. Have you ever used a cover when
21 reaching out to sources to obtain
22 information?

23 A. I have used a -- I've used a --
24 what do you call it -- a statement about
25 my -- a statement about sort of -- yes, I

1 M. Santos-Neves

2 have used a cover.

3 Q. Do you recall how many times
4 you've used a cover when conducting
5 reputational assessments?

6 A. I cannot recall.

7 Q. More than once?

8 A. Yeah, yes.

9 Q. Would you say the majority of the
10 times in which you've conducted a
11 reputational assessment?

12 A. I cannot say for sure.

13 Q. Did Sam Worby ever use covers
14 when he was conducting reputational
15 assessments?

16 MR. BOWKER: Objection.

17 Relevance.

18 A. I can't speak to what Sam did or
19 didn't do.

20 Q. You can, in the fact that you
21 worked with him and sort of as you
22 described were an apprentice under him?

23 A. Right.

24 MR. BOWKER: Objection to form.

25 BY MR. SMITH:

1 M. Santos-Neves

2 internet, the press, you know.

3 Q. Okay.

4 But you don't -- you're not -- or
5 are you aware of people that work at Uber
6 through your work for them as an employee
7 for Ergo?

8 A. No.

9 Q. So you said that Uber was a
10 client of Ergo's?

11 A. Yes, I confirmed that.

12 Q. Okay.

13 How many projects has Ergo
14 conducted for Uber?

15 A. Four.

16 Q. Four?

17 Do you recall when the first
18 project was?

19 A. It began in the fall.

20 Q. Of last year?

21 A. Of 2015.

22 Q. What type of project was that?

23 MR. SWANSON: At least from the
24 standpoint of Uber, I'm going to
25 interject here that some of the Ergo

1 M. Santos-Neves

2 BY MR. SMITH:

3 Q. I'm going to turn to the fourth
4 project. Do you recall when that project
5 started?

6 A. The fourth project, I believe,
7 began in May.

8 Q. Were you involved in that project
9 at all?

10 A. No.

11 Q. Can you give me in general terms
12 the type of project that one was?

13 A. In general terms, it was a market
14 assessment.

15 MR. BOWKER: This one is foreign.

16 Can we go off the record for just
17 one second?

18 (Whereupon, an off-the-record
19 discussion was held.)

20 BY MR. SMITH:

21 Q. Turning back to the third project
22 for a moment, did you work on that project?

23 A. I did.

24 Q. And how long did that project
25 last?

1 M. Santos-Neves

2 A. Since he was an up-and-coming
3 researcher in environmental conservation,
4 and that is part of his reputation, yes.

5 Q. I'm asking the reason you were
6 doing the project, the research project on
7 Mr. Meyer, was not because he was an
8 up-and-coming environmental
9 conservationist, but because it was -- he
10 had sued the CEO of Uber, Mr. Kalanick, and
11 Uber had commissioned a study, is that
12 right?

13 A. Yes.

14 MR. BOWKER: Objection. Form.

15 BY MR. SMITH:

16 Q. Is that yes? Strike it.

17 So where did get the idea to
18 inform primary sources related to Mr. Meyer
19 that you were doing a research project on
20 various up-and-coming researchers and in
21 environmental conservation?

22 A. Where did I get the idea?

23 Q. Yes.

24 A. I developed it.

25 Q. So it was your idea?

1 M. Santos-Neves

2 A. Yes.

3 Q. Did anyone else at Ergo know that
4 you were making this representation to
5 primary sources related to Mr. Meyer?

6 A. At what point?

7 Q. Prior to delivery of the report.

8 A. Yes, my supervisors knew that --

9 Q. Who was that, Mr. Egeland and
10 Mr. Moneyhon?

11 A. Yes.

12 Q. And they both knew it?

13 A. Yes.

14 Q. Did they ever tell you that what
15 you were doing was wrong in any way?

16 A. No.

17 Q. When did they learn that you were
18 making these representations to primary
19 sources related to Mr. Meyer?

20 A. I have a recollection of having a
21 conversation with Mr. Moneyhon, in which I
22 very quickly mentioned to him how I was
23 approaching source engagement, and then I
24 believe that Mr. Egeland found out through
25 an e-mail at some point, I can't remember

1 M. Santos-Neves

2 the specific date.

3 Q. So prior to the completion of the
4 project?

5 A. Yes.

6 Q. Do you recall roughly when you
7 had the conversation with Mr. Moneyhon?
8 Was it towards the beginning of the project
9 or towards the end?

10 A. It was after initial source
11 engagement. I would say the first half.

12 Q. But you were still in the process
13 of engaging the primary sources at that
14 time?

15 A. Yes.

16 Q. And so Mr. Egeland and
17 Mr. Moneyhon knew that you were making a
18 representation about doing a project on
19 various researchers, and it was condoned?

20 MR. BOWKER: Objection. Form.

21 A. I can't speak to whether it was
22 condoned or not.

23 Q. They never told you it was wrong,
24 right?

25 A. They didn't say one way or the

1 M. Santos-Neves

2 other.

3 Q. And they never reprimanded you?

4 A. No.

5 Q. Did they tell you that you were
6 in breach of any guideline or protocol?

7 A. No.

8 MR. BOWKER: Off the record.

9 (Recess taken from 12:10 p.m. to
10 12:24 p.m.)

11 (Exhibit 4, E-mail chain, Bates
12 stamped ERGO-0001080, marked for
13 identification, as of this date.)

14 BY MR. SMITH:

15 Q. Before we went on break, you had
16 just said that your supervisors were aware
17 of statements made to primary sources with
18 regard to the Meyer project and that -- you
19 said that they never had any issue with
20 your conduct, right?

21 A. Yeah.

22 Q. So I've handed you a document
23 that's Bates labeled ERGO-0001080.

24 Can you take a look at the
25 document? It's an e-mail chain and you're

1 M. Santos-Neves
2 name, potential source that I definitively
3 contacted as part of this investigation.

4 Q. Okay.

5 You see the third column that
6 says, "Ergo Source"?

7 A. Yes.

8 Q. And there is either a yes or
9 no --

10 A. Right.

11 Q. -- in that column. What does
12 that column refer to?

13 A. The individuals who became
14 sources in our report.

15 Q. So if any information was
16 collected from any of these people that
17 made it into the report, they would be
18 designated as a source?

19 A. Yes, if the information went into
20 the report, there would be a source.

21 Q. For other people that aren't
22 listed as sources, were you able to collect
23 information about Mr. Meyer that didn't go
24 into the report?

25 A. So -- I don't believe so. So I

1 M. Santos-Neves

2 A. Yes.

3 Q. And this led to Mr. Whitman
4 reaching out to to set up a phone call?

5 A. That's right.

6 Q. And so you did have a follow-up
7 phone call with Mr. Redacted, correct?

8 A. I did.

9 Q. And did you record that call?

10 A. Yes.

11 Q. And did Mr. Redacted know it was
12 recorded?

13 A. No, not that I'm aware of.

14 Q. Did you ask him permission to
15 record it?

16 A. No.

17 Q. Do you know if Uber was aware
18 that the phone call with Mr. Redacted was
19 recorded?

20 A. I have no way of knowing whether
21 it was aware or not.

22 Q. And you didn't tell him that you
23 were recording the phone conversation?

24 A. I did not tell him, no -- not
25 that I can recall.

1 M. Santos-Neves

2 MR. BOWKER: Objection. Form.

3 A. I stand by my previous statement
4 regarding this sentence at issue.

5 Q. And this e-mail led to a
6 follow-up call with Mr. Redacted?

7 A. Yes.

8 Q. Okay.

9 And you had a phone call with
10 Mr. Redacted, correct?

11 A. That's right.

12 Q. And did you record that call?

13 A. I did.

14 Q. Did you tell him it was being
15 recorded?

16 A. I did not.

17 Q. Did you --

18 A. Or I do not recall telling him
19 whether it was being recorded or not.

20 Q. Was Mr. Redacted aware that it was
21 being recorded?

22 A. I can't speak for Mr. Redacted,
23 but -- so...

24 Q. Well, did he have any indication
25 on the call, did he make any indication on

1 M. Santos-Neves

2 aid of the recording.

3 (Exhibit 20, Write-up of
4 conversation with Mr. **Redacted**, Bates
5 stamped ERGO-000583, marked for
6 identification, as of this date.)

7 BY MR. SMITH:

8 Q. You've been handed Exhibit Number
9 20, Bates ERGO-000583.

10 Do you recognize this document?

11 A. I do.

12 Q. What is this document?

13 A. This is a write-up of my
14 discussion with Mr. **Redacted**.

15 Q. So is the first part of this
16 document, the paragraph in bold, what you
17 said to Mr. **Redacted**?

18 A. It was intended to be an
19 introductory statement to Mr. **Redacted**, but I
20 can't say with 100 percent certainty that
21 this was -- that I said these exact words
22 to Mr. **Redacted**.

23 Q. But the words would be on a
24 recording, right?

25 A. I would assume so, yes.

1 M. Santos-Neves

2 Q. So in this introductory paragraph
3 that you said was intended to be an
4 introductory statement to Mr. Redacted R, you
5 wrote in the second sentence:

6 "As part of the real estate
7 market research project for a client, I am
8 interviewing property owners in New Haven.
9 We are looking to find out what due
10 diligence steps property owners take to vet
11 a potential tenant."

12 Do you see that?

13 A. Yes.

14 Q. That's not a true statement, is
15 it?

16 A. It is a -- it is a -- no, it's
17 not a true statement.

18 Q. Why did you make this statement
19 to Mr. Redacted

20 A. Again, to have a cover that would
21 protect the identity of my client while at
22 the same time allowing me to ask Mr. Redacted
23 questions that would shed light on
24 Mr. Meyer.

25 Q. While speaking with Mr. Redacted,

1 M. Santos-Neves

2 A. The value of -- the property
3 value?

4 Q. Correct.

5 A. Would have been in the deeds.

6 Q. Was that included in the report?

7 A. For this particular unit?

8 Q. Yes.

9 A. Well, he didn't own the unit,
10 so...

11 Q. His prior units.

12 A. Yes. For a house that he had
13 owned in Maine.

14 Q. So why include information
15 regarding his potential salary and
16 properties he used to own in the report?

17 A. That information is part of a
18 standard Ergo report. So when we do a due
19 diligence, it -- there is a section of it
20 that includes information about sources of
21 what we, based on our research, were able
22 to gather on sources of wealth.

23 Q. Does that bear any relation in
24 your mind to motivations of Mr. Meyer to
25 bring a lawsuit against Mr. Kalanick?

1 M. Santos-Neves

2 A. I cannot say whether it would
3 have really any role in his motivations
4 or --

5 Q. I'm asking you as the initial
6 drafter of the report, a report whose
7 objective, at least in part, was to explore
8 the objectives of Mr. Meyer in deciding to
9 bring suit against Mr. Kalanick, whether or
10 not you believed his financial information
11 was relevant to those motivations?

12 MR. BOWKER: Objection to form.

13 A. You know, I was tasked to do the
14 research. One of the components of it was
15 coming to an accurate, as accurate as
16 possible an assessment of, you know, his
17 sources of wealth.

18 So...

19 Q. Why was that a component of the
20 project?

21 A. As I said, it's included as part
22 of a standard report for, an Ergo report,
23 so...

24 Q. But sitting here today, you can't
25 think of how it relates to potential

1 M. Santos-Neves
2 motivations of Mr. Meyer to bring a suit
3 against Mr. Kalanick?

4 MR. BOWKER: Objection.
5 Relevance.

6 A. I can't speculate.

7 Q. So back to your conversations
8 with Mr. Redacted, was the phone call, which
9 is reflected here in your write-up, was
10 that your only communication with Mr.
11 Redacted?

12 A. There was an earlier phone call
13 to set up the call, and then the actual
14 call.

15 Q. Okay.

16 And then that was the extent of
17 your communication with Mr. Redacted?

18 THE WITNESS: Could we take a
19 break?

20 Q. If I can just finish up with this
21 document, like another 30 seconds?

22 MR. BOWKER: You're doing okay?

23 THE WITNESS: I could use a bit
24 of a break.

25 MR. SMITH: If you insist, that's

1 M. Santos-Neves

2 Q. Anyone else?

3 A. He was the one who prepared me
4 for deposition.

5 Q. Did you speak to any other
6 counsel in preparation for your deposition
7 today?

8 A. I spoke -- not in preparation
9 for -- am I allowed to check with counsel
10 to determine what qualifies preparation for
11 deposition?

12 MR. SMITH: I'll allow it. Go
13 ahead.

14 A. So at the beginning of our
15 preparation, Ergo's GC general counsel was
16 there.

17 MR. BOWKER: Go ahead.

18 A. But then Mr. Bowker and I -- he
19 was only there briefly at the beginning --
20 and yeah.

21 Q. And who is Ergo's GC?

22 A. Matthew Moneyhon.

23 Q. And when did you meet with
24 counsel to prepare for your deposition?

25 A. Yesterday afternoon.